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EXAMINER

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ART UNIT	PAPER NO.
2202	

DATE MAILED:

10/05/92

**SECRECY ORDER
AND PERMIT FOR FOREIGN FILING IN CERTAIN COUNTRIES**
(Title 35, United States Code, §§ 181-188)

Sponsoring Agency & Address: Mr. Donald Singer
Department of Air Force, AF/JACP
1501 Wilson Blvd., Room 805
Arlington, VA 22209
(703) 696-9050

Notice: To the patent applicant(s); his, her, or their heirs; and any and all of the assignees, licensees, attorneys and agents (hereinafter designated principals):

The sponsoring agency listed above has determined that this patent application discloses critical technology with military or space application, the unauthorized disclosure of which would be detrimental to the national security and which is subject to export control under:

ECCN¹ Reference: 1355A

Goods Accompanied
by Sophisticated
Know-How

ITAR² Reference:

Goods Accompanied
by Sophisticated
Know-How

YOU ARE ORDERED TO KEEP THE SUBJECT MATTER SECRET (as required by 35 U.S.C. §181) and YOU ARE FURTHER ORDERED NOT TO PUBLISH OR DISCLOSE THE SUBJECT MATTER TO ANY PERSON EXCEPT AS SPECIFICALLY AUTHORIZED HEREIN.

¹ Export Commodity Control Number (ECCN) on the Commodity Control List, Export Administration Regulations, U.S. Department of Commerce; Supplement No. 1 to 15 CFR §399.1.

² International Traffic in Arms Regulations (ITAR), Office of Defense Trade Controls, U.S. Department of State; 22 CFR §§120-130.

Any other patent application already filed or hereafter filed in the U.S. or any foreign country which contains any significant part of the subject matter of the above-identified application falls within the scope of this Order. If such other patent application is not under a Secrecy Order imposed by the U.S. Patent and Trademark Office, it and the common subject matter must be brought to the attention of the Director, Group 220, Attention: Licensing and Review, U.S. Patent and Trademark Office, Washington, D.C. 20231 as soon as possible.

Publication or disclosure of the subject matter of the above-identified patent application, except as authorized herein or subsequently by the Commissioner of Patents and Trademarks, may subject the person publishing or disclosing the subject matter to the penalties of 35 U.S.C. 182, 185 and 186 (1952).

This Order should not be construed in any way to mean that the Government has adopted or contemplates adoption of the invention disclosed in this application and it is not any indication of the value of such invention.

The principals may disclose, for legitimate business purposes³, the subject matter of the above-identified application to a U.S. citizen or to a person who is both admitted lawfully into the United States for permanent residence and is located in the United States provided the U.S. citizen or person is furnished with a copy of this Secrecy Order and is informed that this Secrecy Order is applicable to the subject matter disclosed.

Legitimate business purposes include selling or producing products for the commercial domestic marketplace, or for the commercial foreign marketplace providing that any required export license is obtained. Legitimate business purposes also include selling or otherwise disclosing technical data to foreign contractors or foreign governments after receiving the required export license or approval by the U.S. Government.

The principals shall notify the Commissioner of Patents and Trademarks if a validated license is obtained from the Office of Export Administration, U.S. Department of Commerce, or a license is obtained from the Director, Office of Defense Trade Controls, U.S. Department of State, under regulations governing the export of technical data (15 CFR §379 of the Export Administration Regulations or 22 CFR §125 of the International Traffic in Arms Regulations).

The subject matter of the above-identified application has been determined not to be encompassed by Executive Order 10865, entitled "Safeguarding of Classified Information Within Industry" or Executive Order 12356, entitled "National Security Information" and thus is not subject to the "Industrial Security Manual for Safeguarding Classified Information." However, since the disclosure of the subject matter would be detrimental to the national security, the subject matter must be safeguarded under conditions that will provide adequate protection and prevent access by unauthorized persons. When copies of the subject matter are no longer needed, they should be destroyed by any method that will prevent disclosure of the contents or reconstruction of the document.

³ The term "legitimate business purposes" is to be interpreted consistent with 32 CFR Part 250 (49 FR 484040, December 10, 1984), originally published as DOD Directive 5230.25, November, 1984, entitled "Withholding of Unclassified Technical Data From Public Disclosure."

The principals are permitted, subject to the conditions stated hereinafter, to file and prosecute a corresponding application for patent in each of the following countries: Australia, Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom. The papers for each foreign application and its prosecution shall be transmitted to the sponsoring agency, identified herein, for forwarding through diplomatic channels for filing in the foreign country either directly by the principals or through the principals' foreign patent attorney or agent if authorized by the foreign government. Correspondence exclusively relating to payments of taxes and fees need not be sent through the sponsoring agency and diplomatic channels provided that such correspondence contains no information pertaining to the subject matter of the above-identified application.

International reciprocal agreements providing for the filing of patent applications under a Secrecy Order in the above-identified countries require the principals to furnish to the sponsoring agency identified herein (in addition to the papers to be filed in the foreign patent office) a copy of the specification (including any drawings annexed thereto, any resume and the claims included in the patent application) filed in the patent office of the foreign country. This copy will be furnished to the appropriate defense agency of the foreign government for information only and without prejudice to any rights of the principals. The filing date and serial number of the patent application should also be furnished to the sponsoring agency.

The principals shall request the foreign patent office to place in secrecy the foreign patent applications corresponding to the above-identified application and shall furnish a copy of this Secrecy Order and permit with the first papers to be filed in the foreign patent office.

The use of this permit to file in a foreign country shall constitute a waiver, unless otherwise required by international agreements, of any claim to compensation for loss or damage due solely to the imposition of secrecy or similar treatment of the invention. Belgium, France, the Federal Republic of Germany, the Netherlands, Norway, Turkey and the United Kingdom normally require a separate document confirming such a waiver.

In the case of Japan, the applicant shall ensure in its contract with its patent attorney that the patent attorney shall submit to the Japanese Patent Office a certified copy of this Secrecy Order and Permit. The submission of this permit to the Japanese Patent Office is considered notification to the Government of Japan of the Secrecy Order status of the above-mentioned application and a corresponding Japanese application will be considered an Agreement Application referred to in paragraph 3(a) of the Protocol to the 1956 United States-Japan Agreement.

Please contact the above sponsoring agency for information concerning the imposition or status of the Secrecy Order. Contact the Licensing and Review Branch of the Patent and Trademark Office (703/308-1718) for information regarding the examination of this patent application.

Charles T. Jordan
f/ Robert E. Garrett
Director, Special Laws Administration



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON DC 20324-1000

8-29-92

14 September 1992

Commissioner of Patents and Trademarks
U.S. Patent and Trademark Office
Attn: Licensing and Review
4-10C-24
Washington, D.C. 20231

RECORDED
SEARCHED
INDEXED
SEP 26 1992
FBI - WASH. D.C.

Dear Sir:

This is to notify you, on behalf of the head of the agency who caused the secrecy order to be issued on the following identified patent application, that an affirmative determination has been made that the national interest requires that the invention continue to be kept secret and the grant of a patent continue to be withheld.

U.S. Patent Application Serial No. 008,432 FWC 456812
Filed: 28 January 1987
Inventor(s) William C. Choate et al.
Prosecuted by: ()Govt ()Contractor ()Unknown Party
Case No.

Accordingly, it is recommended that the order be renewed.

Sincerely

DONALD J. SINGER, USAF

Sponsor (ASPB Member)

Organization _____